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Lt. Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
New Jersey Board of Nursing
124 Halsey Street, 6th Floor, Newark, NJ 07102
www.njconsumeraffairs.gov/medical/nursing.htm



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Newark, NJ 07101
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May 5, 2015

VIA REGULAR AND CERTIFIED MAIL

Michelle C Diem
821 Neville Street
Toms River, NJ 08753

RE: I/M/O Michelle C Diem, C.H.H.A.
Final Order of Discipline

Dear Ms. Michelle C Diem:

Enclosed please find a copy of the Final Order of Discipline ("FOD") filed with the New Jersey State Board of Nursing ("Board") in the above referenced matter. Please read this Order carefully, as you may be subject to additional discipline if you do not comply with the terms of the Order. You can obtain information about the status of your certification by calling the Board office at (973) 504-6430.

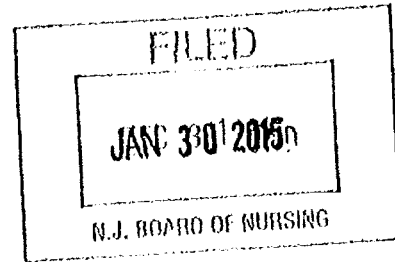
Sincerely yours,

George Herbert, Executive Director,
State Board of Nursing

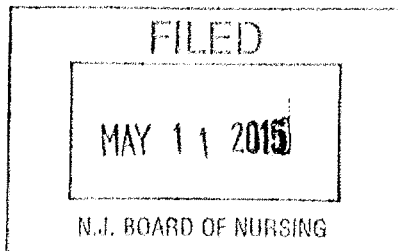
Encl.

cc: Shirley Dickstein, DAG

JOHN J. HOFFMAN
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By: Shirley Dickstein
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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF NURSING

THE MATTER OF THE SUSPENSION OR	:	ADMINISTRATIVE ACTION
REVOCATION OF THE CERTIFICATE OF	:	
	:	PROVISIONAL ORDER OF DISCIPLINE
	:	
Michelle C. Diem, C.H.H.A.	:	
Certificate No.: 26NH11809400	:	<input checked="" type="checkbox"/> Finalized by Default on: 05/11/2015
	:	May 11, 2015
TO PRACTICE AS A CERTIFIED	:	
HOMEMAKER HOME HEALTH AIDE	:	
IN THE STATE OF NEW JERSEY	:	FINAL

This matter was opened to the New Jersey State Board of Nursing (the "Board") upon receipt of information which the Board has reviewed and on which the following preliminary findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Michelle C. Diem, ("Respondent") is the holder of Homemaker-Health Aid Certificate 26NH11809400 in the State of New Jersey. (See L2k printout as *Exhibit A*).

2. On February 8, 2014, Respondent was arrested by the Tom River Police Department in violation of N.J.S.A. 2C:20-11B (2) (Shoplifting). (See Flagging Notice, *Exhibit B*).

3. Upon receipt of the flagging notice, the Board sent a letter of inquiry, requesting certain information and submission of documents, to Respondent's address of record in Tom River, New Jersey, via regular and certified mail, on February 28. The regular mail was not returned and the certified mail was signed for and delivered. (See Letter of Inquiry and Signed Certified Mail Receipt, *Exhibit C*).

4. On March 13, 2014, the Board received a letter from Seabrook House stating that Respondent had been admitted into the Inpatient Treatment Program on March 5, 2014 and the projected discharge date was April 4, 2014. (See Seabrook House Letter, *Exhibit D*). Respondent also provided a narrative stating that she had a drug problem and other documentation, including information about her employment.

5. On April 1, 2014, Respondent was arrested for two (2) counts of Theft by Deception, in violation of N.J.S.A. 2C:20-4A,

two counts of Forgery by Altering, in violation of N.J.S.A. 2C:21-1A(1) and three (3) counts of Forged Writing, in violation of N.J.S.A. 2C:21-1A(3).

6. On September 15, 2014, Respondent was convicted of Shoplifting and is awaiting sentencing. (*Exhibit F*).

7. The Board subpoenaed Respondent to appear at an investigative inquiry to be held on January 6, 2015. Respondent was given notice by regular mail and certified mail. The regular mail was not returned and the certified mail was delivered on December 18, 2014 (*Exhibit G*). Respondent did not contact the Board and did not appear for the inquiry.

CONCLUSIONS OF LAW

Respondent's failure to appear at the investigative inquiry constitutes a failure to cooperate with a Board investigation, in contravention of N.J.A.C. 13:45C-1.2 and 1.3, in violation of N.J.S.A. 45:1-21(e), subjecting Respondent to disciplinary action pursuant to N.J.S.A. 45:1-21(h).

Respondent's admitted use of drugs and conviction of Shoplifting constitute violations of N.J.S.A. 45:1-21 (f), as Respondent has been convicted of, or engaged in acts constituting, crimes or offenses relating adversely to the practice of nursing.

ACCORDINGLY, IT IS on this 30th day of January, 2015,

ORDERED that:

1. Upon the filing of a FINAL ORDER OF DISCIPLINE, Respondent's certificate to practice as a homemaker-home health aide will be suspended until such time as Respondent responds to the letter of inquiry and appears before the Board and addresses the concerns raised by Respondent's arrests, conviction and drug issues. Upon the filing of a FINAL ORDER OF DISCIPLINE, Respondent shall refrain from engaging in the practice of homemaker-home health aide care and shall not represent herself as a certified homemaker-home health aide until such time as her certification is reinstated. Any practice in this State prior to such reinstatement shall constitute grounds for a charge of unlicensed practice.

2. A civil penalty in the amount of \$200.00 is provisionally imposed upon Respondent for failing to cooperate with a Board investigation. Payment shall be made by certified check or money order, payable to the State of New Jersey, or by wire transfer, direct deposit, or credit card payment delivered or mailed to George Hebert, Executive Director, State Board of Nursing, P.O. Box 45010, Newark, New Jersey 07101. Any other form of payment will be rejected and will be returned to the party making payment. Payment shall be made no later than 15 days after the entry of a FINAL ORDER OF DISCIPLINE. In the

event Respondent fails to make a timely payment, a certificate of debt shall be filed in accordance with N.J.S.A 45:1-24 and the Board may bring such other proceedings as authorized by law.

3. Respondent may request a modification or dismissal of the above stated Findings of Fact or Conclusions of Law within 30 days of the date this Provisional Order is filed by:

- a) Submitting a written request for modification or dismissal to George Hebert, Executive Director, Board of Nursing, 124 Halsey Street, Sixth Floor, P.O. Box 45010, Newark, New Jersey 07101.
- b) Setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed.
- c) Submitting any and all documents or other written evidence supporting Respondent's request for consideration and reasons therefore or offered in mitigation of penalty.

4. Any submissions will be reviewed by the Board and the Board will thereafter determine whether further proceedings are necessary. If no material discrepancies are raised through a supplemental submission during the thirty-day period, or if the Board is not persuaded that the submitted materials merit further consideration, a FINAL ORDER OF DISCIPLINE will be entered.

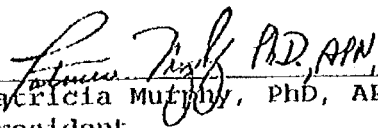
5. In the event that Respondent's submissions establish a need for further proceedings, including, but not limited to an evidentiary hearing, Respondent shall be notified with regard

thereto. In the event that an evidentiary hearing is ordered, the preliminary findings of fact and conclusions of law contained herein may serve as notice of the factual and legal allegations in such proceeding. Further, in the event a hearing is held and upon review of the record, the Board shall not be limited to the findings, conclusions and sanctions stated herein.

6. In the event that the Board receives no written request for modification or dismissal within 30 days following entry of this Provisional Order, without further Board review, all referenced preliminary Findings of Fact and Conclusions of Law and all provisional sanctions or penalties imposed by this Order shall automatically become the Final Decision and Order of the Board. Thereafter, Respondent's failure to comply with any sanction or penalty imposed by this Order shall be considered a violation of a Board Order in contravention of N.J.S.A. 45:1-21 (e) and (h) and N.J.A.C. 13:45C-1.4 and may subject Respondent to additional sanction and/or penalty.

7. The Board reserves the right to initiate disciplinary proceedings based upon any information that Respondent provides in response to the letter of inquiry, at an appearance at an investigative inquiry or upon any new information the Board receives.

NEW JERSEY STATE BOARD OF NURSING

By:  PD, APN
Patricia Murphy, PhD, APN
President